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10 CFR Ch. I (1–1–01 Edition)

(2) Any material artificially enriched by any of the foregoing, but does not include source material.

Testing Facility means a nuclear reactor licensed by the Commission under the authority of subsection 104c of the Act and pursuant to the provisions of § 50.21(c) of this chapter for operation at:

(1) A thermal power level in excess of 10 megawatts; or

(2) A thermal power level in excess of 1 megawatt, if the reactor is to contain:

(i) A circulating loop through the core in which the applicant proposes to conduct fuel experiments; or

(ii) A liquid fuel loading; or

(iii) An experimental facility in the core in excess of 16 square inches in cross-section.

[51 FR 33230, Sept. 18, 1986, as amended at 53 FR 52652, Dec. 29, 1988; 56 FR 31505, July 10, 1991; 57 FR 32714, July 23, 1992; 58 FR 38695, July 20, 1993; 65 FR 36964, June 12, 2000]

§ 171.7 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the regulations in this part by an officer or employee of the Commission, other than a written interpretation by the General Counsel, will be recognized as binding on the Commission.

§ 171.8 Information collection requirements: OMB approval

This part contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

[62 FR 52191, Oct. 6, 1997]

§ 171.9 Communications.

All communications concerning the regulations in this part should be addressed to the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Communications may be delivered in person at the Commission's offices at 11555 Rockville Pike, Rockville, MD.

[64 FR 31475, June 10, 1999]

§ 171.11 Exemptions.

(a) An annual fee is not required for:

(1) A construction permit or license applied for by, or issued to, a nonprofit educational institution for a production or utilization facility, other than a power reactor, or for the possession and use of byproduct material, source material, or special nuclear material. This exemption does not apply to those byproduct, source, or special nuclear material licenses which authorize:

(i) Human use;

(ii) Remunerated services to other persons;

(iii) Distribution of byproduct material, source material, or special nuclear material or products containing byproduct material, source material, or special nuclear material; or

(iv) Activities performed under a Government contract.

(2) Federally-owned and State-owned research reactors used primarily for educational training and academic research purposes. For purposes of this exemption, the term research reactor means a nuclear reactor that—

(i) Is licensed by the Nuclear Regulatory Commission under section 104c. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(c)) for operation at a thermal power level of 10 megawatts or less; and

(ii) If so licensed for operation at a thermal power level of more than 1 megawatt, does not contain—

(A) A circulating loop through the core in which the licensee conducts fuel experiments;

(B) A liquid fuel loading; or

(C) An experimental facility in the core in excess of 16 square inches in cross-section.

(b) The Commission may, upon application by an interested person or on its own initiative, grant an exemption from the requirements of this part that it determines is authorized by law or otherwise in the public interest. Requests for exemption must be filed with the NRC within 90 days from the effective date of the final rule establishing the annual fees for which the exemption is sought in order to be considered. Absent extraordinary circumstances, any exemption requests filed beyond that date will not be considered. The filing of an exemption request does not extend the date on which the bill is payable. Only timely

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payment in full ensures avoidance of interest and penalty charges. If a partial or full exemption is granted, any overpayment will be refunded. Requests for clarification of or questions relating to an annual fee bill must also be filed within 90 days from the date of the initial invoice to be considered.

(c) An exemption for reactors under this provision may be granted by the Commission taking into consideration each of the following factors:

- (1) Age of the reactor;
- (2) Size of the reactor;
- (3) Number of customers in rate base;
- (4) Net increase in KWh cost for each customer directly related to the annual fee assessed under this part; and
- (5) Any other relevant matter which the licensee believes justifies the reduction of the annual fee.

(d) The Commission may grant a materials licensee an exemption from the annual fee if it determines that the annual fee is not based on a fair and equitable allocation of the NRC costs. The following factors must be fulfilled as determined by the Commission for an exemption to be granted:

(1) There are data specifically indicating that the assessment of the annual fee will result in a significantly disproportionate allocation of costs to the licensee, or class of licensees; or

(2) There is clear and convincing evidence that the budgeted generic costs attributable to the class of licensees are neither directly or indirectly related to the specific class of licensee nor explicitly allocated to the licensee by Commission policy decisions; or

(3) Any other relevant matter that the licensee believes shows that the annual fee was not based on a fair and equitable allocation of NRC costs.

[56 FR 31505, July 10, 1991, as amended at 57 FR 32714, July 23, 1992; 58 FR 38695, July 20, 1993; 59 FR 12543, Mar. 17, 1994; 59 FR 36924, July 20, 1994]

§ 171.13 Notice.

The annual fees applicable to any NRC licensee subject to this part and calculated in accordance with §§ 171.15 and 171.16, will be published as a notice in the FEDERAL REGISTER as soon as possible but no later than the third quarter of the fiscal year. The annual fees will become due and payable to the

NRC as indicated in § 171.19. Quarterly payments of the annual fee of \$100,000 or more will continue during the fiscal year and be based on the applicable annual fees as shown in §§ 171.15 and 171.16 until a notice concerning the revised amount of the fees for the fiscal year is published by the NRC. If the NRC is unable to publish a final fee rule that becomes effective during the current fiscal year, fees would be assessed based on the rates in effect for the previous fiscal year.

[64 FR 31475, June 10, 1999]

§ 171.15 Annual Fees: Reactor licenses and independent spent fuel storage licenses.

(a) Each person licensed to operate a power, test, or research reactor; each person holding a Part 50 power reactor license that is in decommissioning or possession only status, except those that have no spent fuel on-site; and each person holding a Part 72 license who does not hold a Part 50 license shall pay the annual fee for each unit for each license held at any time during the Federal FY in which the fee is due. This paragraph does not apply to test and research reactors exempted under § 171.11(a).

(b)(1) The FY 2000 annual fee for each operating power reactor which must be collected by September 30, 2000, is \$2,815,000. This fee has been determined by adjusting the FY 1999 actual (prior to rounding) annual fee upward by approximately 1.4 percent.

(2) The FY 1999 annual fee was comprised of a base operating power reactor annual fee, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (surcharges). The activities comprising the FY 1999 spent storage/reactor decommissioning base annual fee are shown in paragraph (c)(2)(i) and (ii) of this section. The activities comprising the FY 1999 surcharge are shown in paragraph (d)(1) of this section. The activities comprising the FY 1999 base annual fee for operating power reactors are as follows:

(i) Power reactor safety and safeguards regulation except licensing and inspection activities recovered under Part 170 of this chapter and generic reactor decommissioning activities.